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CONGRESSIONAL RECORD

US REGISTRY

8-15397
DAILY DIGEST
19 OCT 1988

September 30, 1988

19 OCT 1988

~~Amendment~~ to the World Bank. (By 57
~~Amendment~~ No. 342), Senate tabled the

Page 513789

~~Amendment~~ Amendment No. 3321 (to
~~Amendment~~ No. 3321), to prohibit the Overseas
~~Amendment~~ Corporation from insuring, rein-
~~Amendment~~ projects overseas under cer-
~~Amendment~~ By 72 yeas to 23 nays (Vote
~~Amendment~~ amendment.)

Pages 513790, 513798

~~Amendment~~ in the House amendment to
~~Amendment~~ No. 176, agreeing to the follow-
~~Amendment~~ ing amendments proposed thereto:

Page 513802

~~Amendment~~ Amendment No. 3338 (to the House
~~Amendment~~ of the Senate Amendment No. 176), to
~~Amendment~~ for the enactment of sanctions on Iraq to
~~Amendment~~ chemical weapons.

Page 513802

~~Amendment~~ Amendment No. 3339 (to Amendment
~~Amendment~~ No. 3339, of a perfecting nature.

Page 513802

~~Amendment~~ in the House amendment to
~~Amendment~~ Amendment No. 182, agreeing to the follow-
~~Amendment~~ ing amendments proposed thereto:

Pages 513807, 513813

(1) ~~Amendment~~ Amendment No. 3340 (to the House
~~Amendment~~ of the Senate Amendment No. 182), to
~~Amendment~~ stem the proliferation of missiles in the Middle East.

Page 513807

(2) ~~Amendment~~ Amendment No. 3342 (to the House
~~Amendment~~ of the Senate Amendment No. 182), to
~~Amendment~~ express the sense of the Senate that the President be
~~Amendment~~ urged to undertake discussions and negotiations
~~Amendment~~ with other nations, which are principal suppliers of
~~Amendment~~ arms in the Mideast, to limit the sale of arms to na-
~~Amendment~~ tions in the Mideast.

Page 513808

(3) Helms Amendment No. 3343 (to the House
~~Amendment~~ Amendment to the Senate Amendment No. 182), to
~~Amendment~~ provide assurances that foreign diplomats accused of
~~Amendment~~ violent crimes in the United States will be prosecut-
~~Amendment~~ ed under applicable U.S. laws or required to leave
~~Amendment~~ the United States permanently.

Page 513811

Withdrawn:

~~Amendment~~ Amendment No. 3341 (to the House
~~Amendment~~ Amendment to the Senate Amendment No. 182), to
~~Amendment~~ provide that no funds may be appropriated obligat-
~~Amendment~~ ed or expended if after October 1, 1988, any Maver-
~~Amendment~~ ick G. missiles are sold to Kuwait.

Page 513808

Senate concurred in the House Amendment to
the Senate Amendment No. 134.

Page 513801

Agriculture Appropriations, 1989—Conference
Report: By 9 yeas to 4 nays (Vote No. 345),
Senate agreed to the conference report on H.R.

4784, making appropriations for rural development,
agriculture, and related agencies programs for the
fiscal year ending September 30, 1989.

Pages 513818, 513822

Senate concurred in the House Amendment to
Senate Amendment Nos. 1, 12, 22, 43, 46, 56, 68, 75,
82, 90, 91, 109, 120, 121, 122, 126, 127, 128, 129, 130,
131, 140, 141, and 142.

Page 513823

Senate receded from its Amendment Nos. 110 and
134.

Page 513824

Department of Defense Appropriations, 1989—
Conference Report: Senate agreed to the confer-
ence report on H.R. 4781, making appropriations
for the Department of Defense for the fiscal year
ending September 30, 1989.

Page 513835

Senate concurred in the House amendment to
Senate amendment Nos. 1, 19, 21, 23, 35, 36, 42, 45,
49, 50, 60, 61, 71, 72, 73, 77, 78, 80, 81, 83, 87, 102,
103, 104, 106, 108, 128, 131, 138, 179, 186, 192, 195,
206, 208, 209, 210, 220, 227, 228-230, 232-245,
247-250, 253, 254, 256-261, 263, 264, 269-275, and
277.

Page 513857

Senate concurred in the amendment of the House
to Senate amendment No. 78, after taking action on
the following amendment proposed thereto:

Pages 513864, 513869

Rejected:

Helms Amendment No. 3344 (to the House
amendment to the Senate amendment No. 78), to
prevent any funds to be obligated or expended after
December 1, 1988 to dismantle any Poseidon subma-
rines unless the President has certified to Congress
that the Soviet Union has dismantled the Kras-
noyarsk radar. (By 66 yeas to 25 nays (Vote No.
346), Senate tabled the amendment.)

Page 513865

Senate concurred in the amendment of the House
to Senate amendment No. 89, agreeing to the fol-
lowing amendment proposed thereto:

Pages 513869, 513883

(1) Nunn Amendment No. 3345 (to the House
amendment to the Senate amendment No. 89), to
provide that not later than February 1, 1989, the Sec-
retary of Defense shall submit to the Committees on
Appropriations, and Armed Services of the Senate
and House of Representatives a report setting forth
(1) each program, project, or activity for which
funds were not requested in the budget submitted
to Congress pursuant to section 1105 of title 31,
United States Code, for fiscal year 1989 and are
made available under this Act for only one educa-
tional institution which is identified by the terms of
this Act as the institution or organization to perform
the program, project, or activity for which such

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order against the Senator's yielding to other Senators for statements, they will do so and he may lose the floor.

If I were yielding to the Senator for a statement, and another Senator made a point of it, saying, "Mr. President, the Senator can only yield for a question," then I could not yield further except by unanimous consent. But as long as nobody insists on sticking strictly to the rule, I can yield to another Senator for a statement, and the Senator from Pennsylvania can yield to another Senator for a statement.

Let me read it again:

Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question; he has a right to yield to another Senator to propound a question; he cannot yield for a statement, nor to another for the purpose of withdrawing an amendment.

A Senator may yield to another Senator for a question, without unanimous consent, without losing the floor, but he may yield only for a question on objection, when the regular order is requested, or an enforcement of the rules called for, and not for a statement, argument, or speech in the guise of a question.

So as long as nobody challenges a Senator's yielding to another Senator for a statement, he can yield.

So I hope that will, for the record, put to rest that issue.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The majority leader yielded the floor.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I do wish to discuss the rule. I have a copy of the text and have some comments to make on it. But I want to respond very briefly to what the majority leader said earlier.

When I had made the comment about a political wrangling, it was in the context of what has gone on on this floor for the past several days, perhaps several weeks. And when the majority leader makes a comment that the Senator from Pennsylvania enjoys wrangling, I would have to sharply disagree with that and object to it. This Senator makes relatively few appearances on the floor, and on the occasions when I do, they are for substantive matters. They are not wrangling. The majority leader raises an issue about this Senator challenging him. Again I sharply disagree.

The records of the Senate show that it has been months since we had a very heated debate on the arrest of Senator Packwood where I gave in detail my reasons for saying the majority leader was wrong. Later, we had an issue on the INF Treaty where the majority leader had objected to the President's proceeding because of the Senate's rights and I disagreed.

Aside from these two instances, I have not challenged the majority leader on any issue, although I might say that I have been tempted to on a number of occasions.

I feel very strongly that the posture of the Senate at the present time—an

I express my views as one Senator, as I said earlier, recognizing the majority leader's control of the calendar—has left many major issues unresolved, contrary to the interest of the American people. This Senator has not shed any crocodile tears about any subject at any time, and I would take issue with the propriety of the majority leader's characterization "crocodile tears," or "wrangling" or "rambling."

The majority leader says he does not challenge the Senator from Pennsylvania on prosecutorial matters. I do not know what he is talking about. We do not have any prosecutorial matters in the Senate. We are on the Nation's business. But this Senator has not challenged the majority leader inordinately.

Perhaps this Senator has failed to challenge the majority leader when he should have and perhaps other Senators have, too.

But I am on the substantive matters here. I took up this question about yielding only because I have seen the majority leader, I can go back and document it in the CONGRESSIONAL RECORD, object when one Senator yields to another. It is true in that context he raises an objection. But my point, as I read the rules, and I am going to specify in just a moment from the same text the majority leader called, the appropriate rule is to yield only for a question. It is true that the rule will not be enforced as most rules are not enforced in the absence of an objection. But if the appropriate rule is to yield only for a question, then I think that rule ought to be observed and Senators ought not to violate that rule and proceed in an inappropriate way simply because there is no objection.

Many things go on where rules are violated and if no one raises the issue or objects or complains, violations of rules go on all the time in all walks of life. People go through red lights. People violate the antitrust laws. People violate contracts. And if no objection is raised then they get away with it. But that does not mean it is right and that does not mean it is in conformity with the rules.

I read page 634, and I will quote it, at the bottom paragraph, "Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question; he has a right to yield to another Senator to propound a question; he cannot yield for a statement, nor to another for the purpose of withdrawing an amendment."

Where the text says, it is "Under Rule XIX, a Senator in debate, if the regular order is insisted on or called for, can yield only for a question," there is a semicolon there and the statement "he has a right to yield to another Senator to propound a question," and still another semicolon, and then an independent statement in the rule-book, "he cannot yield for a state-

ment, nor to another for the purpose of withdrawing an amendment."

So the language that "he cannot yield for a statement" stands on its own without any qualifying phrase, only if there is an objection.

As this rule is amplified on page 636, it is pointed out that if a Senator yields for other than a question, but if he yields for a statement, then he loses his right to the floor, and that text does not have any qualifications about someone raising an objection.

So I believe that the rules are clear, Mr. President, that you may yield for a question and not for a statement, but if no one raises an issue on it then it is not enforced.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has yielded the floor.

FOREIGN OPERATIONS APPROPRIATIONS, FISCAL YEAR 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a conference report on H.R. 4637.

The PRESIDING OFFICER. The clerk will report.

Mr. SYMMS. Mr. President, is this the unanimous consent—

The PRESIDING OFFICER. The clerk will report the conference report.

Mr. BYRD. This is the foreign operations appropriations.

Mr. SYMMS. Is this a unanimous-consent request?

Mr. BYRD. No, I do not need unanimous consent. The Senator may object if he wishes. Then I will move.

Mr. SYMMS. Mr. President, could I ask the distinguished majority leader a question?

Mr. BYRD. Yes.

Mr. SYMMS. Before we move forward, I just want to protect my rights.

I note that on page 36 of the conference report there is language there that says "That H.R. 4645 as reported on September 22, 1988, by the Committee on Banking, Finance, and Urban Affairs of the House of Representatives is hereby enacted into law."

The only language that makes reference to that says "Provided further that none of these funds shall be made available until S. 2524 or another act authorizing the appropriation of such funds is enacted into law."

My understanding is that a conference is not supposed to include language that has not been acted on by either body. The Senate did not act on that. That was Senate language in our bill. The House never acted on it. The fact is they have not passed the authorizing language.

What this does is deny Senators the opportunity to have debated some \$14 billion of funds that are infused into the World Bank and there are many environmental questions that our Environment and Public Works Committee have addressed on that about what

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want to pay my respects to the distinguished managers of the bill. This must be a frustrating experience—it is to me—to deal with amendments in disagreement and be sure that we have every horse in the right stall. But the Senator from Hawaii, as always, has been most patient and understanding, and I appreciate that.

Mr. President, as to the pending amendment, let me say at the outset that I am pleased that title V of the pending legislation corrects the worst abuses of diplomatic immunity that have allowed the family and support staff of foreign diplomats to commit crimes that would warrant serious punishment if committed by U.S. citizens. The escalation in the number of so-called diplomatic personnel in our country to the present level of 37,000 has obviously exacerbated this problem. In practice, these 37,000 foreigners are free, under current law, to commit any crime—no matter how serious, how violent, or how heinous—and remain free from prosecution.

As a matter of fact, in hearings before the Foreign Relations Committee, we had testimony from law enforcement officers that some of these 37,000 people committed unspeakable crimes, including the rape of a young woman, and laughed at her and said: "You can report it to the police if you want to, but they won't be able to do a thing. We have diplomatic immunity."

Now, obviously, the problems experienced by our citizens are greater than in other countries because of the large foreign delegations to the United States as well as the delegations which also enjoy diplomatic immunity at the United Nations, and other international organizations physically located in the United States.

Title V emphasizes a change in the treatment of diplomatic immunity for family and support staff of foreign diplomats when the families or staff traffic in drugs, drive while intoxicated or commit other reckless driving offenses, or commit violent crimes against U.S. citizens.

But title V does not do enough. It is with the support of the chairman of the Foreign Relations Committee, not the original provision I offered last year. This provision represents the consensus provision adopted by the Senate conferees during consideration of the State Department authorization bill last December. At that time, it was supported by the distinguished chairman and myself, as well as a majority of the Senate conferees. The conferees representing the House Judiciary Committee opposed the provision, but promised hearings for early 1988. In the absence of any House action, however, the Senate Foreign Relations Committee felt it appropriate to renew the effort to pass this legislation to provide a remedy for Americans abused by foreign diplomats.

Mr. President, title V of the bill is, as I say, a first step in the direction of curtailing the abuses of diplomatic im-

munity that have been tolerated by the Department of State.

I have had telephone calls from people in the administration, almost pleading that I do not offer this amendment. I tell them I am sorry. I am going to offer it.

The point is that many of these abuses could have been addressed administratively by the State Department but the State Department did not do its job. This provision will require the State Department to act appropriately in this area of great concern and importance.

The thrust of the proposal is that foreign diplomats charged with serious crimes will continue to be eligible to have diplomatic immunity invoked on their behalf. However, this immunity will be available only if and when invoked by the Foreign Minister of the sending country and that tightens the grip a little bit. The cheese begins to bind. These people will not feel free to rape and pillage and rob and deal in drugs and all the rest of the things that are just unconscionable.

Under the pending amendment, which I have just sent to the desk, the Secretary of State is required to request of the sending country that diplomatic immunity be waived in the case of serious crime in order to permit the prosecution of the individual. If that immunity is waived by the Foreign Minister, the individual will be subject to normal prosecution procedures in the various jurisdictions where such crimes are committed.

However, if the sending country does not waive the immunity, the Secretary of State, under this amendment at the desk, will be required to declare the person non grata, persona non grata, and require that individual to get the dickens out of the United States. We do not want him here, or her.

Individuals who are required to leave under such circumstances will be personally excluded from the United States under the immigration revision also included in the amendment.

The provision also addresses the abuses of the diplomatic pouches. Oh, what goes on with these pouches. These pouches are intended to carry messages to and from the sending country. The provision requires the President to take such steps as may be necessary to prevent the use of diplomatic pouches for the transportation of illicit narcotics, explosives, weapons, or any material used to foster terrorism into the United States of America.

I contend that this amendment is badly needed. I wish all Senators could have heard the testimony that Senator PELL and I heard by law enforcement officers and victims.

A multitude of people came to plead with the Foreign Relations Committee to do something about the atrocities that are occurring day after day in the United States by people who are the guests of the United States.

Mr. President, the date this provision is enacted these diplomatic per-

sonnel and their families no longer will be able to walk away from their crimes. Either the foreign minister of the sending country will waive diplomatic immunity and permit these people to be prosecuted, or the individual will be expelled from the United States and never, never be permitted to return.

Mr. President, I ask unanimous consent that a description of the provisions of title V be printed in the RECORD.

There being no objection, the provisions were ordered to be printed in the RECORD, as follows:

DESCRIPTION OF PROVISIONS

TITLE V—DIPLOMATIC IMMUNITY ABUSE PREVENTION ACT

Section 501—Short title

Section 501 provides a short title of "Diplomatic Immunity Abuse Prevention Act."

Section 502—Crimes committed by diplomats

Section 502(a) amends the Foreign Mission Act, Title II of the State Department Basic Authorities Act of 1956, to require the Director of the Office of Foreign Missions to keep records on each incident in which an individual entitled to immunity is believed to have committed a serious crime.

Section 502(b) amends Section 5 of the Diplomatic Relations Act by adding a new subsection (b) to require the Secretary of State (1) to make an annual report to Congress on the incidents involving serious crimes believed to have been committed by individuals entitled to immunity, and on any undisputed debt owed by individuals entitled to immunity and (2) to work with law enforcement agencies to educate their officials on the extent of immunity from criminal jurisdiction to which members of the diplomatic community are entitled under international law and to assure that law enforcement officials fully investigate, charge, and prosecute individuals who commit serious crimes in the United States to the extent such action is consistent with such individual's immunity. In addition, this subsection prohibits any State Department employee from discouraging the investigation, charging, or prosecution of an alien, who is a member of a mission or any member of his family or any other alien not entitled to immunity. The Secretary may waive the prohibition with respect to a specific individual if the Secretary determines that significant foreign policy considerations or the national security so requires. Finally, this subsection requires that the Secretary notify each diplomatic mission in the United States of U.S. policy with respect to serious crimes committed by its members.

Section 503—Registration and departure procedures for individuals with diplomatic immunity

Section 503 amends Section 3 of the Diplomatic Relations Act to require the Secretary to develop and implement registration and departure procedures for members of diplomatic missions and their families. Section 503 further states that no individual may be accredited as a diplomat if there is pending against such individual allegations of criminal conduct in any jurisdiction of the United States, except that the Secretary may waive this requirement if he determines that accreditation is required by significant foreign policy considerations or the national security and so reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on For-

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elg Relations of the Senate within 30 days after such accreditation.

Section 504—Waiver of diplomatic immunity or removal when charged with a serious crime

Section 504(a) amends the Foreign Missions Act to set up new procedures for requesting a waiver of diplomatic immunity for any individual entitled to immunity believed to have committed serious crimes. Under these procedures, the Secretary must (1) request the foreign ministry in the offender's country to waive immunity from criminal jurisdiction; (2) inform the foreign ministry in the offender's country that the United States intends to pursue compensation for damages resulting from the crime; and (3) if a waiver of immunity is denied, declare the individual non grata or ensure the individual's removal from the United States. The Secretary of State is directed to notify the Attorney General of each individual who leaves the United States because of that individual's alleged involvement in a serious crime to assure that such individual is permanently barred reentry into the United States.

Section 504(b) amends Section 212(a) of the Immigration and Nationality Act to conform it to the amendments to the Foreign Missions Act in subsection (a), adding a new category of aliens excluded from admission to the United States: any alien who left the United States because of that alien's alleged involvement in a serious crime. An exception to exclusion is authorized to allow entry into the United States for the purpose of any proceeding regarding the crime or if the Attorney General, in consultation with the Secretary of State, determines that allowing entry into the United States is in the national interest.

Section 505—Authority to institute and maintain criminal prosecutions

Section 505 further amends Section 5 of the Diplomatic Relations Act to authorize an exception to current law's requirement that any action or proceeding brought against an individual entitled to immunity be dismissed. That exception states that, in the case of a criminal proceeding, prosecution may be instituted and maintained so long as no action is taken to violate any immunities to which such individual is entitled.

Section 506—Review of U.S. policy on diplomatic immunity

Section 506 requires the Secretary of State to review U.S. policy on diplomatic immunity and report to the Congress within 180 days of enactment on recommendations for necessary changes in U.S. policy.

Section 507—Review of procedures for issuing visas to diplomats to the United States and the United Nations

Section 507 requires the Secretary of State, in consultation with the Attorney General, to review U.S. procedures for issuing visas to diplomats and report to Congress within one year on the results of this review.

Section 508—Liability insurance to be carried by diplomatic missions

Section 508 amends Section 6 of the Diplomatic Relations Act by adding a new subsection requiring the Director of the Office of Foreign Missions to establish a victims compensation insurance plan.

Section 509—Diplomatic pouches

Section 509 directs the President to take "necessary steps" to assure that diplomatic pouches are not used for illicit transportation of narcotics, explosives, and weapons and any materials used to foster terrorism.

Section 510—Definitions

Section 510(a) and 510(b) amend the Foreign Missions Act and the Diplomatic Relations Act to include definitions of the terms "serious criminal offense" and "individual entitled to immunity from the criminal jurisdiction of the United States". Section 510(c) further amends Section 2 of the Diplomatic Relations Act to conform the definition of "family" of individuals entitled to immunity to the definition promulgated by the Department of State in its regulations.

THE PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL].

Mr. PELL. Mr. President, the principles of diplomatic immunity and the inviolability of the person of the diplomat are over 2,000 years old and have been part of international law and our law since the beginning of the Republic. The reason for diplomatic immunity is simple and basic: it is to assure that diplomatic representatives are able to carry out the official business of their governments without undue influence or interference from the host country. I emphasize that title V of S. 2757 in no way changes the fundamental rules concerning subjection of diplomatic and consular personnel to criminal jurisdiction or personal inviolability of diplomats. I am very glad indeed to support this measure of the Senator from North Carolina. I think it is a good measure.

Speaking as a former Foreign Service officer and one who was in charge of a post overseas in a Communist country, albeit a very small post, I can see no harm from reciprocity being invoked because of this measure. All that is required is that the sending country either submit its diplomat to local criminal processes or our country will expel him and her.

So, under that rubric, I do not see how there could be any harm to a U.S. diplomat because this country could always withdraw him.

Incidentally, while I have the floor I would like to thank the Senator from Hawaii and the Senator from Wisconsin for their kindness and courtesy in considering our amendments and again I apologize for the delay this afternoon.

Mr. HELMS. I thank the Senator.

THE PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment offered by the Senator from North Carolina [Mr. HELMS].

The amendment (No. 3343) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUE. Mr. President, I move that the Senate concur in the House amendment to Senate amendment 182, as amended.

THE PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. INOUE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUE. Mr. President, that is it.

Mr. KASTEN. Mr. President, we are about to conclude the foreign operations conference report and this will be the final act of the Senator from Hawaii, who has acted so ably as the chairman of this committee.

He is moving on to the Defense Subcommittee, and I, for one, am going to miss him and I just want to thank him for the privilege and the opportunity of serving with him on this committee.

We have had a wonderful relationship. I think of him as a true friend.

We have also been able to establish a bipartisan approach to the important issues of foreign policy in the United States of America. So I commend and salute the Senator from Hawaii. I also thank our staffs, Richard Collins, Jim Bond, and the others. We have had a very strong and I think a positive working relationship. But it is due in most part to the leadership of the able Senator from the State of Hawaii and I thank him.

Mr. INOUE. Mr. President, I thank my dear friend for his kind words. I intend to be an active member of the Foreign Operations Subcommittee, although I will not have the privilege of serving as chairman. I wish him well. I wish Mr. Bond well. However, I am taking Mr. Collins with me to the Defense Subcommittee, but we will be seeing you. Have fun. Thank you very much.

PARENTAL AND TEMPORARY MEDICAL LEAVE

The Senate continued with the consideration of S. 2488.

Mr. BYRD. Mr. President, what is the pending matter now before the Senate?

THE PRESIDING OFFICER. Action has just been concluded on the conference report. Technically speaking, the pending business is S. 2488, the parental leave bill.

Mr. BYRD. I discussed with the distinguished Republican leader the possible reduction of time on his motion and he indicated that he would be willing to reduce that time. It seems to me right at this point would be a good moment in which to have a vote; possibly 5 minutes to the Republican leader and 5 minutes to this side.

Mr. STENNIS. Mr. President, may I make a parliamentary inquiry?

Mr. BYRD. I yield for that purpose.

THE PRESIDING OFFICER. The Senator from Mississippi [Mr. STENNIS].

Mr. STENNIS. Well, I thank the leader, Mr. President.